

Hearing Date July 12<sup>th</sup>, 2018  
Time: 9:30 A.M.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13  
Case No. 17-12482 CGM

**CARMINE P. AMELIO,**

Debtor

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**OPPOSITION TO MOTION TO VACATE ORDER OF MAY 22,2018  
CONVERTING THIS CASE TO CHAPTER 7**

Krista M. Preuss respectfully represents the following:

1. She is the Standing Chapter 13 Trustee for the Southern District of New York and is fully familiar with the facts and circumstances of this case.

2. This Court, after notice and hearing, on May 17, 2018 ordered the conversion of this Chapter 13 case to one under Chapter 7. An order was entered on May 22, 2018.

3. At the outset, this motion is fatally defective for not having been served on all interested parties. Specifically, the affidavit of service indicates that neither the Office of the United States Trustee nor the duly appointed Chapter 7 Trustee, Deborah Piazza, were served.

4. Once the Court entered the Order converting this case to one under Chapter 7, the Chapter 13 Trustee steps aside and the Chapter 7 Trustee assumes the obligations and responsibilities to administer the case.

5. That having been said, the Court may be reminded of the history of this case. This is the debtor's second filing of Chapter 13 and the motion to extend the automatic stay pursuant to §362 was denied.

6. The debtor, along with his two (2) brothers, Alphonso Amelio and Paul Amelio,

are not strangers to this Court, having filed six (6) petitions between them.

7. The debtor lists at least twenty-two (22) properties in New York, New Jersey, Connecticut and Pennsylvania. These are almost all of the same properties listed in the Alphonso Amelio and Paul Amelio cases.

8. The claims in this case exceed the statutory limit for eligibility under Chapter 13 relief pursuant to §109(e) of the Bankruptcy Code.

9. The debtor's plan fails to address any secured claims except Ally Financial which holds the lien on an automobile.

10. Despite the debtor's allegations, the Trustee did not receive the required documents. The debtor did not provide information regarding his income and expenses or real estate appraisals for any of the properties listed. Nor did the debtor provide proof of insurance on any of the properties leaving them unprotected.

11. The debtor would also have this Court believe that he had no notice of the hearing. Considering the fact that the debtor interposed opposition, this allegation is false.

12. The allegation that the debtor had objected to claims is also misleading as only one objection was docketed.

13. This debtor should not be entitled to relief under Chapter 13 of the Bankruptcy Code and this Court rightfully found that converting this case to a case under Chapter 7 was in the best interest of creditors.

14. The debtor has cited no reason for this Court's order to be vacated.

**WHEREFORE**, it is respectfully requested that the debtor's motion to vacate this Court's Order of May 22, 2018 converting the Chapter 13 case to Chapter 7, be denied.

Dated: White Plains, New York  
July 6<sup>th</sup>, 2018

/s/ Krista M. Preuss  
**Krista M. Preuss(KMP7299)**  
**Chapter 13 Trustee**  
**399 Knollwood Road**  
**White Plains, New York 10603**  
**Tel. 914-328-6333**

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**CERTIFICATE OF SERVICE**

Lois Rosemarie Esposito duly certifies:

I am not a party to the action herein, I am over the age of 18 years and reside in  
the County of Westchester, State of New York.

On July 6, 2018 I served a true copy of the within document, to the herein listed  
parties at the address(es) designated for that purpose, by mailing same in a properly sealed  
envelope with postage prepaid thereon, in an official depository of the United States Postal  
Service within the State of New York to the following:

Carmine Amelio  
60 West 23<sup>rd</sup> Street #830  
New York, New York 10010

/s/ Lois Rosemarie Esposito  
**Lois Rosemarie Esposito**